

CASE NUMBER: 034252/2022

EXHIBIT(S) - J (Motion #003) - Year 5 WIV Subcontract

Document prepared for:
kevin barlow

CASE NAME

Rosemarie Mckinnis Est Of, Kathleen Mckinniss, Carin Rosado, James Finn Est Of, Geraldine Finn Exr v. Ecohealth Alliance Inc, Peter Daszak, Janet D Cottingham Aka, Janet Dasz...

CASE FILING DATE

Oct. 5th, 2022

DOCUMENT FILED DATE

Feb. 21st, 2023

COUNTY

Rockland county, NY

JUDGE

Sherri L Eisenpress

CATEGORY

Torts - Environmental (SARS-COV-2)

STATUS

Active

Exhibit J

**EcoHealth Alliance****SUBCONTRACT OR CONSULTATION AGREEMENT**

NAME: Wuhan Institute of Virology, Chinese Academy of Sciences

ADDRESS: 44 Xiao Hong Shan
430071 Wuhan Hubei, China

REFERENCE LOG #: WIVNIHCOVY4

PROJECT TITLE: CHINA BAT CORONAVIRUSES

PERIOD: 01 JUNE 2018 – 31 MAY 2019

PHONE: 11.86.1897.122.3826

E-MAIL: zlshi@wh.iov.cn

FUNDING SOURCE: 07-049-7012-52271

DUNS NUMBER: 529027474

AGREEMENT AMOUNT: US \$66,500

This Subcontractor or Consultant Agreement (the “agreement”) is by and between EcoHealth Alliance (EHA), a United States tax-exempt organization, located at 460 West 34th Street, New York, 10001, and the Wuhan Institute of Virology (“the subcontractor or consultant”).

An authorized representative of EcoHealth Alliance has executed the original version of this agreement. Please sign the digital copy and return it via email. If EcoHealth Alliance does not receive a signed copy (digital or print) within thirty (30) days of mailing, this agreement may be deemed revoked. This agreement shall be effective only upon the receipt of the subcontractor or consultant’s signed contract by EcoHealth Alliance.

I. TERM AND AMOUNT OF THE AGREEMENT

Subject to the continued availability of funding for this project, the term of this agreement shall be the subcontract or consultancy period stated on page 1 (the "Term"), renewable for an additional term solely by written agreement between the subcontractor or consultant and EcoHealth Alliance.

The amount of the subcontract or consultancy as indicated on the preceding page and detailed in Attachment C is to be disbursed following receipt of a signed, detailed invoice(s) indicating hours, rate(s), and date(s) worked, or locations and dates for travel and all other details as elaborated in the Financial Responsibilities section below. All deliverables and project details are elaborated in Attachment B.

II. CONDITIONS OF THE AGREEMENT

The laws of the United States place certain restrictions on the use of funds awarded to organizations by charitable trusts and foundations. Therefore, the subcontractor or consultant agrees to the following terms and conditions:

1. **Internal Revenue Code:** Funds awarded by EcoHealth Alliance may not be used for any forbidden political activities or for any purposes prohibited by the United States Internal Revenue Service Code.
2. **Foreign Corrupt Practices Act of 1977: as amended:** The subcontractor agrees to be bound by this act that prohibits individuals and entities from making payments to foreign government officials for the purposes of obtaining business. This includes the offer, either directly or indirectly, of anything of value, to a foreign government official to influence that official in his or hers official capacity to do or omit any act in violation of their official capacity or lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business, to any person.

The subcontractor or grantee's directors, officers, employees and agents have not and will not offer, pay, promise or authorize the payment, directly or indirectly through any other person or entity, of any monies or anything of value to any governmental official or employee or any political party or candidate for political office, for the purpose of inducing or rewarding any favorable action or influencing any act or decision of such official or of the government.

Funds in this agreement may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization, except as otherwise agreed upon by EcoHealth Alliance and the subcontractor.

3. **Support for Acts of Terror:** The subcontractor or grantee certifies and represent that they will be bound by U.S. anti-terrorism legislation that prohibit having transactions with and providing material support or resources to individuals or groups that engage in or support acts of terror and that the subcontractor or grantee does not engage in or support, directly or indirectly, acts of terror.
4. **Financial Conflict of Interest:** The subcontractor or grantee certifies and represents that no Significant Financial Conflict of Interest exists regarding their participation in this project that would influence their research. They furthermore agree that if such a conflict develops during the course of this project they will promptly notify and disclose that conflict in writing to the EHA Principal Investigator and the EHA Chief financial Officer and may be required to develop a plan of corrective action to resolve that matter. This requirement shall extend to all individuals with managerial oversight of this grant including their spouse and dependent children.
5. **Federal Funding Accountability and Transparency Act:** The subcontractor or grantee agrees to provide EcoHealth Alliance with all information required by the above law including, if required, executive compensation data for publication on applicable US government websites (complete **Attachment A**). The subcontractor shall obtain a unique DUNS number from Dun & Bradstreet and shall provide it to EcoHealth Alliance.
6. **Non-Discrimination Policy:** The subcontractor will follow a comprehensive, consistent, and non-discriminatory policy (http://www.usaid.gov/about_usaid/disability) to the extent it can accomplish this goal within the scope of the program objectives.

The subcontractor or consultant acknowledges that EcoHealth Alliance is implementing, and over the course of this agreement will continue to implement, reasonable monitoring and oversight to assure the continuing truth of these representations and certifications and that, on request, the subcontractor or grantee will provide documentation of the monitoring and oversight of these efforts.

Notwithstanding any term to the contrary, EcoHealth Alliance may terminate this agreement immediately if it determines that the subcontractor or consultant fails to comply with the conditions stated in this paragraph.

III. USE OF FUNDS

The subcontract or consultancy monies, including any interest earned, may only be used for the purpose(s) stated in this agreement, as contained in the approved budget in Attachment C, and in the scope of work defined in Attachment B.

Funds may not be expended for any other purpose without the prior written approval of EcoHealth Alliance. Should there be a material change in the purpose, character, or

method of operation of the agreement, the subcontractor or consultant agrees to give prompt and detailed written notice to EcoHealth Alliance. The subcontract or consultancy project shall be performed to EcoHealth Alliance's satisfaction as determined by EcoHealth Alliance.

Where appropriate, the subcontractor or consultant agrees to conform to accepted animal care and use practices as laid out in the latest IACUC, if applicable, approved by EcoHealth Alliance, and filed with the appropriate regulatory authorities. The subcontractor or consultant also agrees to follow all USAID requirements regarding scientific conduct.
(<http://www.usaid.gov/sites/default/files/documents/15396/integrity.pdf>)

IV. NATURE OF RELATIONSHIP

The parties hereto intend by this agreement solely to specify the terms for the subcontractor or consultant's use of EcoHealth Alliance subcontract or consultancy funds. Nothing in this agreement shall be construed as creating or constituting the relationship of employer and employee between EcoHealth Alliance and the subcontractor or consultant or the continuation of funding from EcoHealth Alliance. During the course of completing the subcontract or consultancy project work, the subcontractor or consultant remains a distinct and separate legal entity from that of EcoHealth Alliance.

The subcontractor agrees to conform to the laws and regulations of the location in which they operate and obtain all required permits, agreements and insurance required by local authorities. They also agree to pay all fees and taxes levied on this project by applicable political authorities or designated subdivisions.

V. REPORTING REQUIREMENTS

The subcontractor or consultant agrees to fulfill the program scope of services and reporting requirements that are incorporated into this agreement and detailed in Attachment B.

VI. PHOTOGRAPHS AND VIDEO

EcoHealth Alliance retains the rights to all recorded media (photos, video, audio) recorded by the subcontractor or consultant as related to this project.

VII. PUBLICATION REVIEW AND APPROVAL

At least thirty (30) days prior to the publication of any written work made possible by this EcoHealth Alliance subcontract or consultancy agreement, or involving data or information gained in whole or in part from research or activity conducted under this agreement, a copy of such work must be sent to EcoHealth Alliance for pre-publication review, recommendations for revision, and approval by EcoHealth Alliance. All approved written work must recognize EcoHealth Alliance in the acknowledgements.

Written work that is not approved by EcoHealth Alliance must not recognize EcoHealth Alliance in the acknowledgements.

VIII. EVALUATION OF THE AGREEMENT

At its own expense, EcoHealth Alliance may monitor and conduct an evaluation of operations under this subcontract or consultancy agreement. Evaluation may include visits to the subcontractor or consultant by representatives of EcoHealth Alliance in order to observe and discuss the funded project.

IX. DISBURSEMENT OF FUNDS

Unless otherwise stated below, subcontract or consultancy funds shall be disbursed by EcoHealth Alliance based on the following criteria:

1. The subcontractor or consultant shall submit a valid invoice to EcoHealth Alliance indicating the services performed, as well as the time period covered by the invoice. The subcontractor or consultant should attach all supporting documentation needed to substantiate any out-of-pocket expenses.
2. The subcontractor or consultant must sign the invoice as certification that the services rendered and all expenses incurred have been pursuant to the scope of service contained in this agreement.
3. EcoHealth Alliance will invoice the funding source for the value of the invoice and remit the funds to the subcontractor or consultant in a timely manner.
4. EcoHealth Alliance reserves the right to delay payment of any funds due to insufficient documentation submitted by the subcontractor or consultant.
5. The subcontractor or consultant acknowledges that all invoices must be submitted to EcoHealth Alliance prior to the end of the subcontract or consultancy. Invoices submitted after these periods will not be invoiced by the funding source and will not be paid to the subcontractor or consultant.

Unless otherwise directed, EcoHealth Alliance shall remit US funds by bank check made payable to the subcontractor or consultant.

The subcontractor or consultant may elect to have funds wired into a bank account. The legal name of the subcontractor or consultant, who must be the sole owner of the account, must appear on the account.

The subcontractor or consultant shall provide the following banking information to EcoHealth Alliance:

Company Name: Wuhan Institute of Virology, Chinese Academy of Sciences
Bank Name: China Construction Bank Hubei Branch
Bank Address: TI, XIA Hong Shan, Wuhan Hubei, China
Account Number: 42001237053050000820
ABA Code: SWIFT: PCBCCNBJHPX
Bank Telephone: 86-027-87198616

X. SUBCONTRACTOR OR CONSULTANT'S FINANCIAL RESPONSIBILITIES

As applicable, the subcontractor or consultant agrees to adhere to all requirements contained in OMB Circular A-122 during the term of the agreement. The subcontractor or consultant acknowledges responsibility for A-133 Federal Audit requirements for funds received under this agreement and will provide EcoHealth Alliance a copy of their most current A-133 or similar audit report as may be provided. The subcontractor or consultant agrees that all overhead charged to this grant shall not exceed the amount permitted by the federal indirect cost rate in effect during the performance period. The subcontractor or consultant shall provide EcoHealth Alliance with a copy of their most current federal indirect cost rate agreement.

If requested, the subcontractor or consultant will provide EcoHealth Alliance with a copy of a most current audit report. The subcontractor or consultant agrees that all overhead charged to this subcontract or consultancy agreement shall not exceed the amount permitted by the federal indirect cost rate in effect during the performance period. The subcontractor or consultant shall provide EcoHealth Alliance with a most-recent copy of its federal indirect cost rate agreement.

The subcontractor or consultant agrees to keep systematic records of all expenditures relating to this agreement. A quarterly financial report is required along with a signed invoice for services and reimbursement of expenses. Documentation of expenses, consisting of bills, invoices, receipts, log books (acceptable only for gasoline for cars and boats), etc., must be retained by the subcontractor or consultant for five (5) years after the close of the agreement period and must be available for inspection by representatives of EcoHealth Alliance at any time during this period. EcoHealth Alliance may, at its own expense, examine, audit, or have audited the records of the subcontractor or consultant insofar as they relate to activities supported by this agreement.

Your budget records must be itemized in the following categories, as applicable:

1. Salary or stipend – detailed by person, rate, date, and amount
2. Field Equipment – an original or copy (when original is not available) of all receipts or purchase orders must be provided with detailed and regular financial reports for all field equipment items.
3. Purchased services (e.g., field asst., boat hire) – detailed at the level of numbers 1 & 2, above. Detailed logbooks (including dates, times, and signatures) are

acceptable when signed by both subcontractor or consultant and EHA or responsible party.

4. Vehicle associated costs – mileage to be indicated along with any associated costs: driver, repairs, insurance, etc. Detailed logbooks (including dates, times, and signatures) are acceptable when signed by both subcontractor or consultant and EHA or responsible party.
5. Travel – trip cost indicating departure/arrival dates and air/car/train/boat costs along with all boarding passes and receipts.
6. Accommodation – location and amounts per person along with all lodging receipts.
7. Other – any other items that do not fall into the categories above with same level of detail.

The subcontractor or consultant shall submit detailed invoices to EcoHealth Alliance detailing actual expenditures compared to the approved budget or subcontract or consultancy total. Invoices are subject to review and approval of EcoHealth Alliance's principal investigator and/or grants and programs manager who shall certify that all expenses are in conformity with the award.

EcoHealth Alliance reserves the right to request documentation of all costs incurred as part of its normal practices in the use of federal funds.

XI. PURCHASE OF CAPITAL EQUIPMENT

All capital equipment, items valued over US \$5,000 and with a useful life of three years or more, purchased with agreement money remains the property of EcoHealth Alliance. The equipment shall be returned to EcoHealth Alliance at the end of the project unless EcoHealth Alliance agrees, in writing, to relinquish title to the equipment. The subcontractor or consultant agrees to use this equipment solely for the purposes of this project and to maintain it in proper working order.

For all such items, a completed Capital Equipment Inventory must be submitted to EcoHealth Alliance at the conclusion of the project.

XII. UNUSED FUNDS

The subcontractor or consultant agrees to return to EcoHealth Alliance at the conclusion of the agreement period all agreements funds that have not been used to complete the project. The subcontractor or consultant may not use agreement funds after the end of the agreement period without the written consent of EcoHealth Alliance unless both subcontractor or consultant and EcoHealth Alliance agree to an extension of this contract and both parties sign this in the form of an amendment.

XIII. REVOCATION AND REVERSION

EcoHealth Alliance retains the right to cancel all unpaid installments of the agreement, and to require the subcontractor or consultant to repay all portions of the agreement, which are within the subcontractor or consultant's control, if EcoHealth Alliance determines, in its sole discretion, that continuation of the project is no longer in the best interest of EcoHealth Alliance. In addition, EcoHealth Alliance may require the subcontractor or consultant to refund to EcoHealth Alliance funds that EcoHealth Alliance considers have been misused or misappropriated. Circumstances that may cause EcoHealth Alliance to revoke the agreement or demand repayment include, but are not limited to:

1. Material changes in the purpose, character, or method of operation of the agreement;
2. Subcontract or consultancy agreement application or any required report is found by EcoHealth Alliance to be inaccurate in any material respect;
3. EcoHealth Alliance determines that the subcontractor or consultant has failed to perform any of the terms of this agreement; and
4. The subcontractor or consultant in the judgment of EcoHealth Alliance has misused EcoHealth Alliance's name or otherwise harmed the reputation of EcoHealth Alliance.

XIV. INSURANCE AND LIABILITY

By accepting the terms and conditions of this agreement, the subcontractor or consultant also accepts full responsibility for any and all insurance needs, such as medical, vehicle, evacuation, etc. for themselves and all other project related personnel, unless a separate arrangement has been made between EcoHealth Alliance and the subcontractor or consultant. By signing this agreement, the subcontractor or consultant relieves EcoHealth Alliance from any and all liability due to accident or injury, or any other claims that may result from any activities conducted by the subcontractor or consultant in relation to the subcontract or consultancy project.

XV. ADDITIONAL SUPPORT

In making this subcontract or consultancy agreement, EcoHealth Alliance assumes no obligation to provide other or additional support to the subcontractor or consultant.

XVI. NOTICE

All correspondence and project reports should include the reference log number and follow the reporting guidelines described above. Copies should be directed to:

Aleksei Chmura
EcoHealth Alliance
460 W. 34th St, 17th Floor
New York, NY 10001
(t) 1.212.380.4461
(e) chmura@ecohealthalliance.org

XVII. INDEMNIFICATION

The subcontractor or consultant and EcoHealth Alliance hereby mutually agree to indemnify and hold each other, respectively, and each others' affiliates, officers, employees, successors and assigns, harmless from and against claims, demands, actions, proceedings, investigation and right of action, including reasonable attorneys' fees and costs, whether action is instituted or not and, if instituted, whether at any trial or appellate level, whether raised by the other party or a third party, arising from the intentional and/or negligent acts, errors or omissions of the subcontractor or consultant or EcoHealth Alliance.

XVIII. CHOICE OF LAW

This agreement shall be governed by and construed in accordance with the laws of the State of New York.

XIX. PARTIAL INVALIDITY

If any term or provision of this agreement to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

XX. OTHER PROVISIONS

This agreement may not be transferred or assigned by either party without the prior written consent of the other, and any breach of this prohibition will deem the agreement null and void.

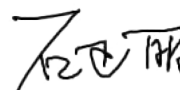
Both parties agree that either party may terminate this agreement following confirmation of written notice to the other party.

Each party represents and warrants that its authorized agent(s) have duly executed this agreement on its behalf.

This agreement constitutes a single integrated contract expressing the entire agreement of the parties hereto. There are no other agreements, written or oral, express or implied, between the parties hereto, concerning the subject matter hereof, except the agreements set forth in this agreement. Any amendment to this agreement is effective only if set forth in writing and signed by both parties.



Dr. Peter Daszak
President, EcoHealth Alliance



Dr. Zhengli Shi
Professor & Senior Scientist,
Wuhan Institute of Virology, CAS

01 July 2018
DATE

01 July 2018
DATE

ATTACHMENT A

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

"Subawards" are defined as either subcontracts or grants-specific subawards. A "subcontract," means a subcontract awarded directly by a contractor to furnish supplies or services (including construction) for performance of a prime contract, but excludes supplier agreements with vendors, such as long-term arrangements for materials or supplies that would normally be applied to a contractor's general and administrative expenses or indirect cost. For grants, a "subaward" means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award.

All subcontractors are required to provide the following information as a condition of receiving funds under this award.

Please answer the following questions Yes or No.

A. In the subcontractor's business or organization's preceding completed fiscal year, did its business or organization (the legal entity to which the DUNS number it provided belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; **and** (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements? No

B. Does the public have access to information about the compensation of the executives in the subcontractor's business or organization (the legal entity to which the DUNS number it provided belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?
Yes as relevant.

ATTACHMENT B: PROJECT DELIVERABLES

Senior/Key Personnel

Co-Investigator, Dr. Zhengli Shi, a Senior Research Scientist at the Chinese Academy of Science's Wuhan Institute of Virology will commit 0.5 months per year to this project to refine study protocols, coordinate research, oversee implementation of all activities, analyze data, lead regular meetings with other PD/PI and Other Senior/Key Personnel as well as draft papers. Dr. Ben Hu, Lab Coordinator, will commit 5.0 months to perform all laboratory work and directly supervise laboratory technicians.

Other Personnel

Three laboratory technician will commit 6.0 months to this project to perform all required laboratory assays and maintenance as well as participate in selected meetings, perform research for papers, and assist Dr. Shi and Dr. Hu in performing the work under this award.

Travel

Travel is required for Senior/Key Personnel Dr. Shi and Dr. Hu to travel to Shanghai to visit partner laboratory Beijing and meet with the PD/PI as well as with collaborators on this proposal. Travel is calculated at one round trip airfare from Wuhan to Beijing, three-night hotel in Beijing, and four days per diem.

Laboratory Experiments and Related Costs.*RNA Extractions*

We will be running RNA Extractions for bat samples, which will cost \$3,444 in this project year.

RT-PCR

Costs for 1-Step RT-PCR assays for Coronavirus conducted on all bat samples: Superscript III one step kit (\$5.18 per sample); Platinum Tag DNA Polymerase (\$0.57 per sample); nuclease-free water (\$0.16 per sample); and Axygen Pipette Tips and Filter Tubes (\$1.21 per sample).

DNA Sequencing

DNA Sequencing will be performed on bat samples at a cost of \$2.91 per reaction costing \$4,625.

Laboratory Supplies

In vitro infection experiments using pseudoviruses carrying the spike proteins (wild type or mutants) or live viruses in cell lines of different origins, binding affinity assays between the spike proteins (wild type or mutants) and different cellular receptor molecules, and humanized mouse experiments. \$25,568 is requested for Lipofectamine2000 transfection reagent; cell lines from bats and other mammals including primates and humans; *in vitro* infection experiments require GIBCO Fetal Bovine Serum; GIBCO antibiotic antimycotic; GIBCO medium; as well as Corning Cell culture; receptor-mutant pseudovirus binding assays require Luciferase assay system E1500; pseudovirus package; sequencing; and protein expression from the binding affinity assays.



EcoHealth Alliance

ATTACHMENT C: PROJECT BUDGET YEAR 5

ITEMS	UNIT/COST	USD
Salary		
Dr. Zhengli Shi (¥432,000 p.a.)	0.5	\$2,687
Dr. Ben Hu (¥84,000 p.a.)	5	\$5,224
Technician I (¥72,000 p.a.)	6	\$5,373
Technician II (¥72,000 p.a.)	6	\$5,373
Technician III (¥72,000 p.a.)	6	\$5,373
Total Salary		\$24,030
RNA Extraction		
QIAamp ViralRNA Mini Kit	¥36.00	\$2,880
Axygen Pipette Tips and Filter Tubes	¥7.00	\$564
Total RNA Extraction		\$3,444
1-step RT-PCR		
Superscript III one step kit	¥32.00	\$1,280
Platinum Tag DNA Polymerase	¥3.50	\$141
Nuclease-free water	¥1.00	\$41
Axygen Pipette Tips and tubes (filter)	¥7.50	\$302
Total 1-step RT-PCR		\$1,764
DNA sequencing		
DNA sequencing for positive samples	¥18.00	\$4,625
Total DNA Sequencing		\$4,625
Lab Supplies		
Lipofectamine2000		\$950
Laboratory Animal	In vitro studies	\$250
GIBCO Fetal Bovine Serum	In vitro studies	\$1,250
GIBCO antibiotic antimycotic	In vitro studies	\$280
GIBCO medium	In vitro studies	\$1,250
Cell lines	All	\$600
Corning Cell culture consumptive	In vitro studies	\$7,500
Luciferase assay system E1500	Receptor-mutant pseudovirus binding assays	\$475
Protein expression	Binding affinity assay	\$2,400
Pseudovirus package	Receptor-mutant pseudovirus binding	\$10,613

	assays	
Total Lab Supplies		\$25,568
Travel Domestic travel for meeting with local partners		\$1,025
Total Travel		\$1,025
Total Direct Cost		\$60,454
Administration of Wuhan Institute of Virology	10%	\$6,045
Total NIH COV Y4 Budget for WIV		\$66,500